



CENTRAL EUROPEAN UNIVERSITY
CENTER FOR POLICY STUDIES



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Czech Republic: No Coherent Desire to Make Interests Transparent

2002/2003



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Abstract:

Since the system of representing interests directly, behind the closed door is well established and advocates of public scrutiny ("watchdogs") remain relatively weak attempts to make policy process more transparent have failed so far. Hopefully, more media attention could force interests to ally and to be "wrapped into public interest clothes".

Outline:

- 1 Advocacy, lobbying, corruption.
- 2 Lobbying in close and open model of policy process. Transparency, stakeholders' participation.
- 3 Key players (objects/players and subjects/targets).
- 4 Lobbying in Czech Republic during transition years - focus areas: privatization, bankruptcy, financial market regulation, demonopolization of grids, public tenders, etc. Regulations concerning transparency, conflict of interest, corruption
- 5 European Perspectives on Lobbying - Does benchmarking (setting standards) work ?
- 6 Conclusions

1. Natural ("Hobbesian") state: assymetric distribution of information and power is subjected to intensive communication among all actors.

Lobbying = legitimate communication of interests and opinions to the specific place ("lobby" of decision making bodies) whereas corruption (fraud, bribe) been illegitimate way of communication (trading interest for money).

Lobbying is sometimes called advocacy when it is done in public debate or on behalf of public interest issues (by NGOs ?)

"An idiot's guide to lobbying in the Czech republic would consist of one word: corruption." (Candole)

2. There are different way safeguarding participation of those concerned in policy process. An open representation through lobbying seems to be a lesser evil than selective and exclusive participation (dire straits of corporatism). *"Good government requires input from interested parties...Lobbying is the part of the democratic process." (O'Connor)*

Transparency is the key requirement that significantly reduces temptations of corruptive behaviour. That is why disclosure is a key principle of any ethical codes and even legal regulation This poses a question of non-profit lobbying/advocacy. NGOs benefitting from non-profit status should not be used as channels bypassing other regulations - party finance, tax evasion, cover for commercial lobbying.

3. Who are the **key players** and how far they are interested in transparent law-making? Interest groups, major corporations, sectoral associations as a key actors in lobbying are interested in transparency only to the extent they are forced to by public scrutiny, media.

However, public interest is not enough promoted – watchdog activities (like monitoring of voting patterns of MPs and MGs) are underdeveloped.

Who are the **targets of lobby influence** - MPs, ministers, civil servants, judges.

Flow of money is important indicator of carried interests. It is disputable which end is easily monitored - whether through auditing of lobbying costs often hidden in companies' accounts as marketing, PR, etc - OR income disclosure of decision-makers ? So far most of regulation have been target- rather than source-oriented (personal and party finance disclosures, codes of conduct, etc.) To subject targets of potential lobbying to public scrutiny and bring as much transparency as possible is probably the only way how to keep lobbying within legitimate boundaries. If not scrutinized, lobby turns into corruption - it feeds personal bank accounts and party finance.

4. In the Czech Republic there was no legislative initiative concerning lobby-activities during recent decade. To be more precise - no legislation regulates lobbyists as *subjects* of lobbying. Not even a single MP asked Parliamentary Institute to prepare a research on rules of lobbying. As an attempt to regulate *objects/targets* of lobbying i.e. decision makers (MPs, members of executive) - Conflict of Interest Act has been adopted in 1992. (*Act on some measures protecting public interest and on non-compatibility certain public appointments - Conflict of Interests Act - No. 238/1992*).

Only recently - April 2002 - ALTISA International Network a Business Leaders Forum organized a seminar on lobbying in the Czech Senate - tried to present lobbying as a legitimate part of decision making process, argued for open recognition of this type of activities.

Other laws that were adopted could be considered as tools that ensure more transparency in policy process:

- *Political Parties Act (424/1991)* - limits scope of party business activities, orders obligatory disclosures } annual reports deposited in the Parliament) and introduces (through recent amendment after series of financial scandals) a system of sponsor receipts issued by Central Bank.

- *Public Procurement Act (199/1994)* - obliges public agencies to use public tenders in procurement

- *Freedom of Information Act (106/1999)*

5. European Lobbyists' Code of Conduct is rather vague because it respects "national specifics" in communication (acceptance of gifts). This might lead to lowest common denominator rather than benchmarking. On the other hand Three Codes of Conduct set rather ambitious rules (no acceptance of any gifts, no fees for lectures, publications, etc.)

Conclusions:

It seems that all players are satisfied with status quo - all the interests are being communicated directly to the decision makers. There is no demand for public intermediary structures like policy think tanks, there is little desire to aggregate or ally particular interests

to be publicly advocated. Expertise of existing and newly created think tanks has to be marketed both to decision maker (as potential user of their products) and to private interests (as potential sponsors of their activities). Parallel watchdog initiatives might push all players to realize long term advantages and benefits of moving towards more open and transparent policy process.

Sources:

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- **For a European political and administrative culture: Three Codes of Conduct**, EC Brussels